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Notice of Allowability	Application No.	Applicant(s)	
	09/922,619	APODACA ET AL.	
	Examiner	Art Unit	
	Golam M M Shameem	1626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 9/27/04.
2. ☒ The allowed claim(s) is/are 1-6,15,20-22,33,36-38,43-45, and 48 (now 1-18).
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>6/1/04</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Status of Claims

Claims 1-6, 15, 20-22, 33, 36-38, 43-45, 48, 51, and 56-59 are currently pending in the application.

Receipt is acknowledged of applicant's amendment / response filed on 01/12/04, 04/05/04 and 09/27/04 respectively and that has been entered. Claim 1 has been amended. Claims 7-14, 16-19, 23-32, 34-35, 39-42, 46-47, 49-50, 52-55 and 60 have been canceled.

Information Disclosure Statement

Receipt is acknowledged of Information Disclosure Statement (IDS), filed on 06/01/04, which has been entered in the file.

Response to Election/Restriction

In response to the restriction requirement, Applicants have elected Group I, which includes 1-6, 15, 20-22, 33, 36-38, 43-45, and 48 drawn to a compound of formula (I) [wherein W is piperazinyl, G is piperazinylmethyl], is acknowledged.

Claims 51 and 56-59 are withdrawn from further consideration pursuant to 37 C.F.R. 1.142 (b) as being drawn to a non-elected subject matter.

Applicant's arguments and amendments have been fully considered and found persuasive with respect to the obviousness type rejection [mailed on 07/07/03] under 35 U.S.C. §03 (a). The rejection is hereby withdrawn. Upon reconsideration, the restriction requirement has been withdrawn between Group I and Group II, [which includes claims 1-6, 15, 20-22, 33, 36-38, 43-45, and 48 drawn to a compound of formula (I) [wherein W is morpholinyl, G is morpholinylmethyl], because they fall within the scope of elected invention. However, during a

telephonic interview, with Mr. Gabriel Lopez (Attorney for Applicant) on February 9, 2005, Applicant has agreed to cancel non-elected claims 51 and 56-59 and therefore, the restriction requirement has been withdrawn and all remaining pending claims 1-6, 15, 20-22, 33, 36-38, 43-45, and 48 have been allowed.

Examiner's amendment

An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Gabriel Lopez on February 9, 2005.

The application has been amended as follows:

- a. Claims 51 and 56-59 have been canceled.
- b. In claim 20 (original), line 1, please delete "claim 18" and insert with --claim 1--.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Golam Shameem, Ph.D. whose telephone number is (571) 272-0706. The examiner can normally be reached on Monday-Thursday from 6:30 AM - 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane, can be reached at (571) 272-0699. The Unofficial fax phone number for this Group is (703) 308-7922. The Official fax phone number for this Group is (571) 273-8300.

When filing a FAX in Technology Center 1600, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for draft

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documents and other communications with the PTO that are not for entry into the file of the application. This will expedite processing of your papers.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [joseph.mcKane@uspto.gov]. All Internet e-mail communications will be made of record in the application file. PTO employees will not communicate with applicant via Internet e-mail where sensitive data will be exchanged or where there exists a possibility that sensitive data could be identified unless there is of record an express waiver of the confidentiality requirements under 35 U.S.C. 122 by the applicant. See the Interim Internet Usage Policy published by the Patent and Trademark Office Official Gazette on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist, whose telephone number is (571) 272-1600.

A handwritten signature in black ink, appearing to read 'Golam M M Shameem', with a stylized, cursive script.

Golam M M Shameem, Ph.D.
Primary Patent Examiner
Art Unit 1626
Technology Center 1600

February 10, 2005